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RUEHMD/AMEMBASSY MADRID PRIORITY 3052
RUEHMU/AMEMBASSY MANAGUA PRIORITY 0975
RUEHME/AMEMBASSY MEXICO PRIORITY 3579
RUEHOT/AMEMBASSY OTTAWA PRIORITY 0573
RUEHFR/AMEMBASSY PARIS PRIORITY 0356
RUEHQH/AMEMBASSY QUITO PRIORITY 1744
RUEHRO/AMEMBASSY ROME PRIORITY 0568
RUEHTC/AMEMBASSY THE HAGUE PRIORITY 0819
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C O N F I D E N T I A L SECTION 01 OF 03 CARACAS 000461

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E.O. 12958: DECL: 02/03/2021
TAGS: PGOV PHUM ELAB KDEM VE
SUBJECT: SUMATE REPRIEVE MAY BE BRIEF INDEED

REF: A. CARACAS 339

¶B. CARACAS 340
¶C. CARACAS 457

Classified By: Robert Downes, Political Counselor,
for Reason 1.4(b).

Summary

¶1. (C) A Caracas appeals court accepted on February 9 a motion by lawyers for the four Sumate directors that vacates the entire process to date, and requires a new trial to be initiated. That new trial may not kick off until sometime between May and August, however Sumate's lawyers warned Polcouns February 17 that the case file is due in court next week and that the prosecutor may continue to press for Sumate's arrest at the outset of the trial. Sumate representatives attributed the Bolivarians' temporary retreat to significant international and national pressure put on the government after prosecutors sought detention for the defendants. European Union diplomats, coordinated by the Austrian ambassador (whose government currently holds the EU presidency), were responsive to Sumate requests for support and pledged to make informal overtures to the government. Separately, Roberto Abdul reported February 16 he had appeared before military prosecutors in the capacity of a witness regarding his temporary detention by naval intelligence officials February 8. Meanwhile, the attorney general's office said it was planning a new investigation into the NGO's alleged mishandling of signatures collected in October 2002 in support of a consultative referendum against President Hugo Chavez. The timing on Sumate's trial remains fluid and the heat will no doubt stay on as the December presidential election nears. Reftel C describes Ambassador's February 10 meeting with EU and Latin American ambassadors on the Sumate case. End summary.

Appeals Court Recuses Judge

12. (C) After the trial judge in the case against four directors of the electoral NGO Sumate appeared ready to throw the accused in jail during their trial, a Caracas appeals court accepted a defense motion February 9 to force the lower court to replace the judge and appoint two lay judges (or jurors in the Venezuelan system). The appeals court decision vacates the entire process to date and effectively re-starts the trial process from scratch. One of the accused, Alejandro Plaz, estimates it will take the new judge three to six months to get the new trial ready. Plaz noted to Poloff February 14 that the new timeframe could see the new trial starting between May and August, when the presidential race will be heating up. Plaz thought this would complicate efforts by the government of the Bolivarian Republic of Venezuela's (BRV) to prosecute them, given Sumate's high profile as an electoral watchdog. Sumate's defense lawyer Juan Martin Echeverria warned Polcouns February 17 however, that the prosecutor, who was not replaced, will not be dissuaded in her efforts to imprison the accused and that the case file was due in court next week. (The charge against the Sumate directors is that they conspired against the country by accepting a US\$31,000 grant from the National Endowment for Democracy (NED)).

International and Domestic Pressure

13. (C) Plaz said the BRV held off on putting the three

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directors in jail because of pressure brought by international and domestic supporters of Sumate. Plaz was appreciative of efforts by Secretary Rice to enlist support from the governments of Austria (currently the EU president), Spain, and Brazil. Plaz said the Austrian ambassador had in fact already convened a meeting of 25 EU diplomats just after the prosecutors requested the detention; the diplomats agreed to make informal contact with the government to express concern. Brazilian diplomats (protect) report that President Chavez has invited the Austrian, Brazilian, and Spanish Ambassadors to meet with him February 17. Plaz said the Austrian suggested the EU troika might even be willing to issue a written statement should Sumate's detention appear imminent. The Secretary's call to the Austrian foreign minister apparently prompted a second call from the Austrian ambassador to Plaz asking how else the EU might help. Plaz said he also met personally with the ambassadors of France and Spain, who are known to have close relationships with Chavez, to seek their intervention. Both ambassadors promised they would voice concerns to Vice President Jose Vicente Rangel. Plaz said Sumate's indirect message to Rangel was: we aren't fleeing the country and plan to be there on Tuesday to continue with the trial. (Note: Separately, in a breakfast on February 16 with DCM, Polcouns and visiting WHA/AND staff, Maria Corina Machado said that prior to the trial she had received an indirect message from the Vice President's office warning that prosecutors were going to seek their detention. Machado interpreted the message as an attempt to scare the NGO leaders into leaving the country.)

14. (C) Domestically, Plaz noted that Caracas Archbishop Jorge Urosa raised the issue with Interior Minister Jesse Chacon before Plaz had called him. Urosa reported that Chacon agreed that it would be a blunder to put Sumate behind bars, that it would only create martyrs, but said that Attorney General Rodriguez had a personal vendetta against Sumate. (Both Plaz and Maria Corina Machado gave interviews to international and local press alleging that President Chavez himself had ordered the stepped up pressure against Chavez as an electoral ploy.) Plaz added that Sumate's supporters had

planned a demonstration of about 1,000 people at the courthouse on the day of the trial.

Abdul a Witness in Naval Intelligence Probe

15. (C) Separately, Roberto Abdul told Emboffs and visiting WHA/AND team February 16 that he had been summoned on February 15 to the naval prosecutor's office to give testimony over his presence at a naval intelligence raid on February 8 at the home of a former member of Primero Justicia (PJ) (ref a). Abdul said the questions were restricted to the facts of raid and whether he had been treated courteously by the agents during the operation. Abdul identified the target of the investigation as Jesus Ignacio Lopez Lobato, an employee of Chacao municipality. Sumate's subsequent checks with PJ revealed that Lopez was no longer active in the party and deemed by the party as unstable because of an alleged drug habit. Plaz admitted to poloff February 14 that they had erred in sending Abdul to meet with Lopez, who had repeatedly insisted that Maria Corina Machado come to the meeting in person.

New Charge Over Signature Drive

16. (C) The attorney general's office reported February 8 that it was planning new charges against the Sumate directors. Sumate's defense lawyer Juan Martin Echeverria told Polcouns

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February 17 that the charges could come at any moment, and that due to a change in prosecutors on the case, the March 29 date originally cited by the attorney general's office was no longer valid. The new charges stem from Sumate's submission in November 2002 of more than 1.5 million signatures to the National Electoral Council (CNE) calling for a consultative referendum against President Chavez. Plaz said that at the time Vice President Rangel had charged that Sumate, in presenting the signatures on behalf of citizens, had effectively taken on the role of a political party without registering as such with the CNE. The new charges would cite Sumate for this infraction of electoral law, which Abdul said carries a maximum penalty of three months in jail (usually served as probation). Abdul warned that it is possible the BRV is seeking through this process to establish that Sumate was a political party and thereby strengthen the BRV's case against Sumate for receiving NED financing. However, Sumate defense lawyer Echeverria told Polcouns February 17 that he expected the NED trial to progress before the new charges were brought to fruition because it was at a much later phase in the judicial process.

Comment

17. (C) The Sumate directors are not out of hot water yet and their reprieve may be all too brief. While it is possible this episode was a BRV trial balloon to test international resolve, we suspect Plaz' analysis that international and domestic pressure forced a tactical retreat is correct. It could also be true that the BRV's preferred outcome was that Machado and Plaz flee the country, which would rid the BRV of their effective pro-democracy activities and create the impression that the two were admitting their guilt. Our sense is that Plaz and Machado are willing to go to jail for their principles, if the BRV seeks to play chicken with Sumate again, Plaz's and Machado's resolve will be tested.

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